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TCG

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

June 7, 1994

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Written Ex Parte Presentation in CC Docket No. 93-162: Investigation of Expanded Interconnection Tariffs

Dear Mr. Caton:

Teleport Communications Group, Inc. ("TCG") hereby submits an original and two copies of this written ex parte communication concerning the allocation of common nonrecurring costs for expanded interconnection.

TCG has reviewed the LEC tariffs for provisions regarding how the LECs intend to compensate an initial interconnector for bearing the nonrecurring cost of elements that will benefit all successive interconnectors. The majority of LECs do not address this situation in their tariffs. Ameritech, BellSouth, NYNEX, Southwestern Bell, and US West do not appear to address the issue of the recovery of common investments, although some appear to calculate basic nonrecurring charges based on assumed levels of collocation demand. See Ameritech Direct Case, page 22, paragraph 31(b)(2). It can only be assumed that the other LECs are charging the entire common cost to each new interconnector as they enter an office, and therefore would appear to be in a position in which they will "double recover" the common construction costs of allowing interconnectors into a central office.

An example of common nonrecurring charges would be the installation of a card swipe security system for use by interconnectors. In addition to security, other common costs can include such things as manholes, racking and cabling elements, power arrangements, conduits and risers, and separate doorways and hallways. Under most LEC tariffs, the first collocator into that central office would be charged under tariff for these costs. As other interconnectors enter the office, however, they will enjoy the benefit of the facilities and systems whose costs have been borne by the initial collocator.

Bell Atlantic [Bell Atlantic Tariff F.C.C. No. 1 §19.6(A)]; GTE [GTE Tariff F.C.C. No. 1 §17.6.1(H)]; and Pacific Bell [Pacific Bell Tariff F.C.C. No. 128 §16.3.4] do address the proper treatment of common nonrecurring costs. The three LEC plans are summarized below:

Bell Atlantic

- Additional interconnectors are charged a prorated share of the Common Nonrecurring Charges. This share is then refunded to the existing interconnector so that each interconnector has paid an equal amount.
- Refunds are limited to a 24 month period.
- There is no limit on the number of collocators the refund will be based on.

Pacific Bell

- Additional interconnectors are charged a prorated share of the Common Nonrecurring Charges. This share is then refunded to the existing interconnectors so that each interconnector has paid an equal amount.
- Refunds are limited to a 12 month period.
- Refunds are limited to the first four interconnectors.

GTE

- Initial interconnector is refunded one-third of the Building Modification Charge ("BMC") for both the second and third collocator entering the central office.
- The additional collocators must occupy the office within 12 months of the initial interconnector for any refund to take place.
- A sum of $1000 out of the one-third refund is retained by GTE for "administrative costs".

- Should only one additional interconnector occupy the office within the twelve month period, the initial interconnector will receive only a refund of 1/3 (as opposed to the more logical 1/2) of the BMC minus the $1000 GTE administration fee.

TCG believes the basic methodology suggested by Bell Atlantic and Pacific Bell, with suitable modifications, is the most reasonable method suggested. The GTE proposal should be rejected by the Commission as it only produces a fair outcome if exactly three interconnectors occupy an office in a twelve month period. GTE's retention of $1,000 is hardly appropriate -- no LEC should be allowed to charge an interconnector for a refund of the interconnector's money, when they have had the time value of that money. Moreover, the LECs have charged other administrative and order charges for the basic collocation arrangement, and should not be allowed to "skim" $1,000 off as the money goes by.

TCG favors the proration of clearly identified common costs as opposed to the use of demand estimation suggested by Ameritech. Since the issue is one of refunding amounts already paid, rather than prospectively calculating rates to be applied, the use of actual demand is particularly appropriate. Moreover, use of estimated demand encourages LECs to underestimate the demand for collocation in order to increase the rates for their competitors. At the same time, it would be difficult for interconnectors to effectively challenge LEC demand estimates, since they will not be aware of the interconnection plans of their competitors, and would be hesitant to publicly disclose their own interconnection plans. By contrast, actual installations of new expanded interconnection arrangements in a central office will often be visible and verifiable for interconnectors.

Finally, TCG opposes the one year limits in the Pacific and GTE tariff and the two year limit in the Bell Atlantic tariff. These limits are arbitrary, discriminatory and anticompetitive. Once the common modifications to a central office are paid for, they are paid for. Whether the next interconnector's order arrives in three months or three years, the LEC will not have to spend more money for those improvements.

No reasonable basis for these cut-offs is suggested by the LECs. GTE and Bell Atlantic do not even attempt to defend their time limits. Pacific Bell offers the odd rationale that the collocator will enjoy some enhanced "status" with being the first in an office, and that if it enjoys that status for a year apparently it is alright to keep its money. Pacific Direct Case at 54. That makes no sense whatsoever -- the issue is whether the rates are reasonable and if the LEC is double recovering its costs. Where Pacific gets the idea that it can overcharge its collocator customers because there is some "prestige" associated with being the first CAP on their block to have a collocation arrangement is beyond TCG.

Pacific also discusses the "administrative costs" associated with calculating refunds. Id. What is administratively convenient for the LECs, however, is a function of what suits their business objectives. It is "administratively convenient" for the LECs to offer long term discounts of up to ten years for competing DS3 services, which indicates that they are not troubled by the recordkeeping and calculation burdens associated with tracking demand and costs for such periods when it suits their business objectives. TCG cannot accept any claims that it is not "administratively convenient" to similarly track the demand and cost characteristics of collocation for a similar period -- indeed a strong argument could be made that it would be unreasonably discriminatory to do anything less. Accordingly, TCG would recommend that the LECs be required to offer refunds of nonrecurring charges for a period at least as long as the longest DS3 or DS1 term discount they offer in their FCC tariffs.

In conclusion, TCG believes that all LECs should be required to incorporate tariff language similar to Bell Atlantic Tariff FCC No. 1 §19.6(A), with the exception that the time limit should be based on LEC term discounts. All LECs should be required to clearly identify and remove common nonrecurring costs from all nonrecurring charges, and where a nonrecurring charge consists of both common and individual components, LECs should be required to make a reasonable allocation of those costs between the two categories. Common nonrecurring charges can then be subject to the refund process described above.

Respectfully submitted,

J. Manning Lee
Senior Regulatory Counsel

cc: David A. Nall
Amy Glatter